

In The Matter Of:
Project Veritas Acton Fund v.
Daniel F. Conley, et al.

James O' Keefe
April 9, 2018

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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3 EASTERN DIVISION

4 C.A. No. 1:16-cv-10462-PBS

5
6 PROJECT VERITAS ACTION FUND,

7 Plaintiff,

8 vs.

9 DANIEL F. CONLEY, in his

10 official capacity as Suffolk

11 County District Attorney,

12 Defendant.

13
14 DEPOSITION OF JAMES E. O'KEEFE, III,

15 individually and as corporate designee of Project

16 Veritas Action Fund, a witness called on behalf of

17 the Defendant, taken pursuant to the applicable

18 provisions of the Federal Rules of Civil Procedure

19 before Cynthia A. Powers, Professional Shorthand

20 Reporter and Notary Public in and for the

21 Commonwealth of Massachusetts, at the Office of the

22 Attorney General, One Ashburton Place, Boston,

23 Massachusetts, on Thursday, April 9, 2018,

24 commencing at 9:02 a.m.

1 **APPEARANCES:**

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6 Representing the Plaintiff

7
8 Eric A. Haskell, Esquire

9 Matthew Landry, Esquire

10 The Commonwealth of Massachusetts

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15 Representing the Defendant

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P R O C E E D I N G S

JAMES E. O'KEEFE, III,

having been satisfactorily identified
and duly sworn by the Notary Public,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HASKELL:

Q. Mr. O'Keefe, good morning.

A. Good morning.

Q. Thanks for coming up here today. We met
in the hallway a moment ago. My name is Eric
Haskell. I'm assistant attorney general. I
represent the Defendant in this case, so in effect
the state of Massachusetts, and I'm going to ask you
some questions today.

A. Sounds good.

Q. Can I ask you to just state your name
for the record?

A. James O'Keefe.

Q. Is that your full name?

A. James Edward O'Keefe, III, is my full
name.

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1 Q. *So, that portion of in the transcript
2 you testified about earlier where Ms. Giles asked
3 Mr. Vera if he was recording the conversation, that
4 doesn't appear here in the published film, does it?

5 A. Repeat your question.

6 (Record read)

7 A. I don't believe it does.

8 Q. Okay. We will shut down the ACORN film
9 on the screen here. Where is your office,
10 Mr. O'Keefe?

11 A. It's in Mamaroneck, New York.

12 Q. What's the address?

13 A. 135 Hoyt Avenue.

14 Q. What's the difference between -- well,
15 excuse me. Are Project Veritas's offices located at
16 135 Hoyt Avenue?

17 A. Correct.

18 Q. Are PVA's office located at 135 Hoyt
19 Avenue?

20 A. Correct.

21 Q. What's the relationship between the Hoyt
22 Avenue office and the office on, I think it was West
23 Boston Post Road?

24 A. The Boston Post Road address is our P.O.

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1 Box.

2 Q. I see. So, the physical office is at
3 135 Hoyt Avenue?

4 A. Correct.

5 Q. Does Project Veritas have any other
6 physical offices other than Hoyt Avenue?

7 A. No.

8 Q. Does Project Veritas Action have any
9 other physical offices?

10 A. No.

11 Q. Do you regularly come to Massachusetts
12 to do business in person?

13 A. Define regular.

14 Q. How often do you come to Massachusetts
15 to do business in person?

16 A. About twice a year maybe.

17 Q. What kind of things were you up here?

18 A. I would have to think. I would have to
19 recollect recent years. Fundraising activities,
20 events in New Hampshire, investigative work in
21 New Hampshire, at the very least.

22 Q. Anything else?

23 A. Yes, but I don't remember every activity
24 beyond that.

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1 A. Yes.

2 Q. And then I understand in 2014 Project
3 Veritas Action -- can we call Project Veritas Action
4 PVA?

5 A. Yes.

6 Q. In 2014 I understand PVA was created?

7 A. Yes.

8 Q. Did you play a role in creating PVA?

9 A. Yes.

10 Q. What role was that?

11 A. I should say oversight. I authorized
12 Russ Verney, my executive director, to carry out
13 most of the responsibilities in its creation.

14 Q. Since PVA was created in 2014, have you
15 had a role with that entity as well?

16 A. Yes.

17 Q. What's your title at PVA?

18 A. Well, I'm the chairman of the board.

19 Q. Any other titles?

20 A. I have to check my board minutes just to
21 make sure I'm completely accurate here, but
22 president, CEO.

23 Q. What are your responsibilities as board
24 chairman, president, and CEO of Project Veritas

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1 Action?

2 A. Four primarily responsibilities.
3 Typically those include fundraising, external --
4 external, like, speeches; media appearances --
5 fundraising, external -- three, undercover
6 journalism and production. That's three. And the
7 fourth, let's see, fundraising, external, UCJ,
8 undercover journalism and production oversight.
9 There's one more. It's escaping me, but it will
10 come to mind in a minute, I guess.

11 Q. Let's talk through those. Starting with
12 undercover journalism, what work do you do with
13 respect to PVA's undercover journalism activities?

14 A. I would say I'm a creative director, and
15 I provide oversight and direction for the various
16 projects that we do.

17 Q. Do you work with Mr. Halderman --

18 A. Yes.

19 Q. -- in that respect?

20 A. Yes.

21 Q. In your own words, what is
22 Mr. Halderman's role with respect to the UCJ work
23 that PVA does?

24 A. He's an executive producer. He's

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1 responsible for carrying out projects, oversight
2 over certain projects, assembling the footage into
3 what we call a storyboard so that it's consumable to
4 the audiences that we produce the stories to.

5 Q. Do you exercise the same level of
6 detailed oversight over the undercover journalism
7 operations as Mr. Halderman?

8 A. Sometimes I do. Sometimes I authorize
9 him completely to be responsible for the majority of
10 the work. In some cases I get more involved
11 depending on what the video is.

12 Q. With respect to, for instance, are you
13 familiar with the investigation that led to a video
14 report on Nicholas Dudich?

15 A. Yes.

16 Q. Is that one where you were involved in
17 the day-to-day details or where you more left it to
18 Mr. Halderman?

19 A. It's not black or white. It's not yes
20 or no. It's a percentage degree involved in some of
21 those things. Usually I'm involved at least a
22 little bit, but in some cases he's responsible for
23 the majority or the vast majority of oversight of
24 the project.

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1 Q. How would you characterize the level of
2 Mr. Halderman's level of oversight in the Dudich
3 project?

4 A. He was very involved.

5 Q. Is it fair to say that Mr. Halderman was
6 the day-to-day detail guy on the Dudich project?

7 A. Yes.

8 Q. What's your title at Project Veritas?

9 A. President and CEO.

10 Q. Are your responsibilities at Project
11 Veritas any different from your responsibilities at
12 PVA?

13 A. Same scope of responsibilities. The PVA
14 work is mostly centered around election related
15 investigative work whereas Project Veritas's work
16 usually focuses on nonelection subjects of
17 investigation.

18 Q. Notwithstanding the difference in
19 subjects of investigation, how would you compare
20 Project Veritas's methods and techniques to those of
21 PVA?

22 A. They're similar.

23 Q. Are they different in any way?

24 A. Not if you -- not -- notwithstanding the

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1 subjects because PVA focuses mostly on campaigns,
2 politicians, whereas Project Veritas focuses on
3 broader educational issues.

4 Q. But the methods and techniques that each
5 organizations uses is the same, just different
6 subject matter?

7 A. Correct.

8 Q. How many hours a week would you say you
9 spend doing work wearing your Project Veritas hat?

10 A. It's never -- there's never a typical
11 week or a consistent number.

12 Q. Let's look at it more broadly. Say over
13 the course of the year, what portion of your time is
14 spent on Project Veritas work versus spent on PVA
15 work?

16 A. It could be as wide of a margin as
17 80/20, or 80 percent on Project Veritas, 20 percent
18 on Project Veritas Action, or it could be something
19 to the effect of 65 percent on Project Veritas and
20 35 percent on Project Veritas Action over the course
21 of a year.

22 Q. Is it fair to say the focus of both
23 Project Veritas and PVA's work is undercover
24 journalism?

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1 A. Correct.

2 Q. How did PVA in particular go about
3 undercover journalism?

4 A. We secretly record people because
5 sometimes that's when they are the most honest.

6 Q. Do you commonly -- excuse me, does PVA
7 commonly openly record people?

8 A. We sometimes openly record people.

9 Q. How often?

10 A. I don't want to give you a misleading
11 estimation, so I don't know the answer to that.

12 Q. Would you say it's happened more than
13 one time --

14 A. Yes.

15 Q. -- this calendar year?

16 A. This calendar year, 2018, probably not
17 since we haven't entered election season yet.

18 Q. Would you say it's happened more than
19 one time going back to the beginning of 2016?

20 A. The beginning of 2016?

21 Q. Yes.

22 A. I believe it has, yes.

23 Q. Has it happened; that is, you openly
24 record somebody as part of the PVA's journalism

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1 work, more than five times since the beginning of
2 2016?

3 A. I would have to go back and check to see
4 if it happened more than five times.

5 Q. You aren't concern whether it has?

6 A. I'm not certain. I would have to go
7 back and look at the videos.

8 Q. Is it fair to say that the overwhelming
9 majority of the journalistic work that PVA does is
10 undercover reporting?

11 A. Yes.

12 Q. Why the focus on undercover reporting?

13 A. We believe that major media has become
14 systemically corrupt in so far that they have passed
15 along untrue information along to the masses that
16 sources have given to them, information that is
17 demonstrably untrue and information that these media
18 corporations pass along to the masses, thus
19 misinforming the masses.

20 So, the only way to accurately report
21 information and educate the people, we have to go
22 undercover to obtain the honest truths so we can
23 deliver them to the people.

24 Q. And you say undercover work is the only

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1 way to do that.

2 A. Yes.

3 Q. What does, in PVA's work, the concept of
4 access mean to you?

5 A. It means a lot of things, but one of the
6 things it means is getting in with a subject of an
7 investigation so that that subject can trust you
8 enough to be truthful.

9 Q. How does a PVA journalist seek to gain
10 access to somebody they're looking to record?

11 A. There's no specific one way. There's a
12 variety of techniques that we use.

13 Q. What are some of those techniques?

14 A. Sometimes it involves creating an alias
15 such as many of the muckraking reporters have done
16 throughout the last hundred years, assuming an
17 identity in order to ingratiate yourself with the
18 subject so that they can trust you.

19 Q. When you say creating an identity, what
20 do you mean by that?

21 A. Posing as a donor, posing as a pimp,
22 just using a cover the same way law enforcement does
23 or the Chicago Sun Times used to do, or Nellie Bly
24 used to do or Upton Sinclair used to do, just the

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1 idea of posing as something you are not in order to
2 capture candid conversations from the subject you
3 are talking to.

4 Q. Is the effect of that to deceive the
5 person that PVA is seeking to record?

6 A. Define deceive because we never deceive
7 our audience.

8 Q. And I suppose my question is, is the
9 effect of these techniques to gain access to deceive
10 the person who PVA is looking to record?

11 A. That person, that particular person,
12 yes.

13 Q. Does Project Veritas when it releases a
14 video for publication -- actually, just so we're
15 clear, to release a video for publication, what does
16 that mean?

17 A. Typically, it means putting the video on
18 our YouTube channel first.

19 Q. So that it's publicly accessible?

20 A. Yes.

21 Q. And the public is desired and encouraged
22 to watch the video at that point; right?

23 A. Yes.

24 Q. So when Project Veritas releases a video

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1 in that fashion, does it release the raw footage
2 underlying the published video?

3 A. Typically, no.

4 Q. Under what circumstances has it done so;
5 Project Veritas, that is?

6 A. Project Veritas --

7 Q. Yes.

8 A. -- has released the raw video on
9 occasion. I don't remember every single occasion.
10 I know we have released raw videos in the past.

11 Q. What occasions, do you remember?

12 A. A National Public Radio investigation,
13 we released the raw video.

14 Q. Any others?

15 A. Yes, I just don't remember every single
16 one. I believe we released one in New Hampshire
17 with the voter fraud investigations we did in 2012.

18 Q. Has Project Veritas publicly released
19 the raw video underlying one of its published videos
20 on any occasion since 2014?

21 A. I don't believe so, but I would have to
22 go back and check.

23 Q. For Project Veritas Action, does PVA
24 commonly release the raw footage underlying the

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1 video it published?

2 A. I don't believe so, but I would have to
3 go back and check.

4 Q. Has PVA at all going back to 2014 to
5 your knowledge?

6 A. No.

7 Q. So, we have a stack of previously marked
8 exhibits in front of you and to your left, and
9 they're in reverse order that we marked them. Can
10 you reach all the way down to the bottom and take
11 out Exhibits 1 and 2, please?

12 A. Yes, I have them.

13 Q. And Exhibit 1, have you seen that
14 document before?

15 A. Yes.

16 Q. Do you understand it to be a series of
17 topics on which my client sought deposition
18 testimony from PVA in this case?

19 A. Yes.

20 Q. Can I ask you to take a look at
21 Exhibit 2?

22 A. Yes, I have it.

23 Q. Have you seen that document before?

24 A. Yes.

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1 think this was something that we facilitated, as in
2 my undercover reporter. It was an idea that she
3 came up with. The answer could be easily verified
4 if I had a minute to look at the raw tape. I'm
5 trying to recollect something I watched a year ago.

6 Q. Is the raw tape something that you can
7 access from where you are right here right now?

8 A. Yes, yes.

9 MR. HASKELL: Why don't we call a
10 break.

11 (Whereupon, a recess was taken)

12 BY MR. HASKELL:

13 Q. So, Mr. O'Keefe, I think earlier you
14 testified about a video involving NPR; right?

15 A. Yes.

16 Q. What was that one all about?

17 A. That one was about the chief financial
18 officer, I believe it was, of NPR meeting with
19 someone he thought was an agent or member of the
20 Muslim Brotherhood organization, and we posed as a
21 group called MEAC, Muslim for Education Action
22 Reform, or something like that. I can't recall
23 exactly what the name of group was.

24 We met with the two NPR executives at a

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1 posh Georgetown eatery called Cafe Milano, talked to
2 them about their political views, about their views
3 of Jewish Americans, Republicans, Tea Party people,
4 and they were caught on tape ingratiating themselves
5 to these agents affiliated with the Muslim
6 Brotherhood.

7 MR. KLEIN: I'm going to object at
8 this point that we're beyond the
9 designations in the 30(b)(6) for Project
10 Veritas Action. It is otherwise fine
11 for him to testify in his capacity.

12 A. That's about it. It goes on, but that's
13 the basic.

14 Q. You mentioned two organizations, MEAC is
15 that M-E-A-C?

16 A. I believe Muslim Education Action Center
17 was the alias utilized.

18 Q. And Muslim Brotherhood --

19 A. Mm-hmm.

20 Q. -- were both of those organizations that
21 were created as aliases for Project Veritas
22 journalists?

23 A. No, just the Muslim Education Action
24 Center. A website was created. The Muslim

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1 Brotherhood was an existing organization that the
2 undercover journalists said that they were
3 affiliated with them in so many ways.

4 Q. And the undercover journalists also said
5 that they were affiliated with MEAC?

6 A. Correct.

7 Q. How did they procure this meeting with
8 the staff at NPR?

9 A. They had e-mailed with someone in Ron
10 Schiller's office, no relation to Vivian Schiller,
11 CEO of NPR, and had a series of phone calls and
12 meetings and eventually scheduled a date in February
13 of 2011.

14 Q. And the PVA journalists, what did they
15 say --

16 A. This is actually Project Veritas, not
17 Project Veritas Action.

18 Q. Thank you. Thank you. I'm sorry, first
19 of all, Ron Schiller is one of the folks from NPR --

20 A. Correct.

21 Q. -- who ultimately met with the Project
22 Veritas journalists?

23 A. Yes.

24 Q. And what did Project Veritas or its

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1 representatives say to Mr. Schiller's office that
2 led to this meeting coming about?

3 A. In the communications prior to the
4 meeting?

5 Q. Yes.

6 A. Oh, this is another one where I would
7 have to go back and check the exact language used,
8 but speaking broadly it was an interest in making a
9 contribution to NPR.

10 Q. Going into the CD that we previously
11 marked as Exhibit 52, I'm going to put that into the
12 computer, and I'm going to take a look at it up on
13 the screen.

14 So, do you see here on the screen in the
15 conference room we are now in that DVD in folder
16 titled Early Films, sub-folder titled Early Videos,
17 and I'm beginning to play a file whose title begins
18 17I NPR? Do you see that?

19 A. Yes.

20 (Video played)

21 BY MR. HASKELL:

22 Q. I've paused the film at time stamp 40
23 I'm going to move it back one second to time stamp
24 39. Do you recognize what we're watching here?

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1 A. Yes.

2 Q. What is it?

3 A. It's the YouTube I produced about NPR.

4 Q. When was this one made?

5 A. It was released in March of 2011.

6 Q. And this is the investigation video we
7 were speaking about a moment ago?

8 A. Yes.

9 Q. It involves the MEAC and Muslim
10 Brotherhood and the folks posing as potential donors
11 to NPR?

12 A. Yes.

13 Q. Those folks were Project Veritas
14 journalists?

15 A. Yes.

16 (Marked Exhibit 65, Screen Shot)

17 BY MR. HASKELL:

18 Q. Do you recognize Exhibit 65 as a screen
19 shot from this video?

20 A. Yes.

21 Q. That corresponds to what we're looking
22 at on the screen in the conference room right now?

23 A. Yes.

24 Q. What is depicted in Exhibit 65?

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1 A. This is a screen shot of the YouTube
2 video that we produced.

3 Q. This specific portion of the YouTube
4 video, what's the graphic we're looking at in
5 Exhibit 65?

6 A. This is the website, so-called alias or
7 cover that was utilized. This was the website that
8 we had created as the alias to reach out to the NPR
9 executives with.

10 Q. Who created this website?

11 A. My colleague.

12 Q. Working for Project Veritas?

13 A. Yes, I believe he was volunteering at
14 the time.

15 Q. Sure. And did you work with this
16 colleague to create this website?

17 A. I don't remember exactly what I
18 contributed. I think it was more of an oversight
19 role.

20 Q. Were you involved in the creation of the
21 website we see here in Exhibit 65?

22 A. Lightly, yes.

23 Q. Did you say lightly or likely?

24 A. Yes, lightly, a little bit. I didn't

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1 A. Yes.

2 Q. -- who just went by the name Amir Malik
3 for purposes of this investigation?

4 A. Yes.

5 Q. Once again, looking at the computer
6 screen and going into the jump drive that's been
7 marked as Exhibit 39, in the folder titled Jump
8 Drive 30(b)(6) Videos, the sub-folder RDP15, I'm
9 going to open an MP4 file whose title begins 15-P26
10 Out-of-State Voters. Can you see that okay?

11 A. Yes.

12 Q. I'm going to play the first couple
13 seconds of this video.

14 (Video played)

15 BY MR. HASKELL:

16 Q. I've paused that video file. Do you
17 recognize what we're watching here?

18 A. Yes.

19 Q. What is it?

20 A. It's the video of the investigation we
21 did in the New Hampshire Primary in the presidential
22 election in 2016.

23 Q. In this instance when you say "we," who
24 do you mean?

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1 A. Project Veritas Action.

2 Q. Did you personally participate in
3 creating the films that were incorporated into
4 this --

5 A. Yes.

6 Q. -- published video?

7 A. Yes.

8 Q. I'm going to start playing this video at
9 time stamp 11:09, and I'm going to play all the way
10 through stamp 12:19.

11 (Video played)

12 BY MR. HASKELL:

13 Q. So, I've paused it a little ahead at
14 12:05. What did we just see in that segment?

15 A. It was me walking into a voting precinct
16 in New Hampshire on primary day in the 2016 election
17 inquiring about how long a nonresident needs to be
18 in the state in order to vote in the state and
19 inquiring about if hypothetically I could vote and
20 then just leave the next day.

21 Q. Fair to say the last couple things you
22 said in the conversation with the poll worker that
23 we just viewed were to the effect of you offering to
24 go out to the car and get a New York driver's

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1 MR. HASKELL: Certainly.

2 (Whereupon, a recess was taken)

3 BY MR. HASKELL:

4 Q. So, Mr. O'Keefe, can I ask you to go
5 into the stack of exhibits and pull out Exhibit 12?

6 A. Okay.

7 Q. Let me ask you to read through
8 Exhibit 12 and pay particular attention to page
9 number 13. It's the second-to-last page.

10 A. I've read it.

11 Q. Do you recognize Exhibit 12?

12 A. Yes.

13 Q. What is it?

14 A. It's the complaint in this case.

15 Q. And Exhibit 12 is a verified complaint
16 that -- let me ask, page 13 of Exhibit 12, do you
17 recognize the signature on that?

18 A. Yes.

19 Q. Whose signature is it?

20 A. It's mine.

21 Q. So, you signed this verified complaint?

22 A. Yes.

23 Q. And in your own words, what did your
24 signature on the complaint mean?

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1 A. That I declare the information on the
2 page to be accurate.

3 Q. And when you say "on the page," do you
4 mean the information contained in the verified
5 complaint?

6 A. Yes.

7 Q. Specifically looking at page 13,
8 paragraph three, it reads, I have personal knowledge
9 of PVA's activities including those set out in this
10 verified complaint, and if called upon to testify, I
11 would competently testify as to the matters stated
12 herein. Is that true?

13 A. Yes.

14 Q. And it was true at the time you signed
15 it?

16 A. Yes.

17 Q. Paragraph 4 of page 13, reads, I verify
18 under penalty of perjury under the laws of the
19 United States of America that the factual statements
20 contained in this First Amended Verified Complaint
21 concerning PVA's existing and proposed activities
22 are true and accurate, and that's what you were
23 signing for?

24 A. Yes.

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1 Q. It's your testimony that the factual
2 statements in Exhibit 13 concerning PVA's existing
3 and proposed activities indeed are true and correct?

4 A. Yes.

5 Q. Can I ask you to look at page six of
6 Exhibit 12?

7 A. Yes.

8 Q. In particular look at paragraph 24 which
9 reads, In September 2015 PVA exposed campaign
10 finance violations in New York using undercover
11 techniques --

12 A. Yes.

13 Q. -- and then has a citation to a video
14 titled Hidden Cam Hillary's National Marketing
15 Director Illegal Accepting Foreign Contribution. Do
16 you see that?

17 A. Yes.

18 Q. Is that one of those factual statements
19 concerning PVA's existing and proposed activities
20 that you verified to be true and correct in this
21 document?

22 MR. KLEIN: Objection, calls for a
23 legal conclusion.

24 BY MR. HASKELL:

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1 Q. You can answer.

2 A. Yes.

3 Q. Going into the jump drive that we've
4 labeled as Exhibit 39 in the folder titled 30(b)(6)
5 Videos, sub-folder titled RDP15, there's an MP4
6 document whose title begins 15-P24 Hidden Cam
7 Hillary's National Marketing Director Illegally
8 Accepting Foreign Contribution. Do you see that
9 file on the screen in the conference room?

10 A. Yes.

11 Q. I'm going to open that up.

12 (Video played)

13 BY MR. HASKELL:

14 Q. I've paused the film one minute in. Do
15 you recognize this?

16 A. Yes.

17 Q. Is the film we're watching the same one
18 that's described in paragraph 24 of Exhibit 12?

19 A. Yes.

20 Q. And do you have a memory of the
21 investigation underlying the film that we're
22 watching?

23 A. Yes.

24 Q. And just in your own words, what

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1 happened there?

2 A. One of our -- one of PVA's employees was
3 going to a Hillary event and happened to expose a
4 campaign violation from the Hillary Clinton
5 campaign.

6 Q. When you say campaign violation, what
7 you mean?

8 A. Accepting money, a foreign contribution.

9 Q. What does that violate?

10 MR. KLEIN: Objection, calling for
11 a legal conclusion. You may answer.

12 A. It violates part of the FEC's
13 regulations concerning taking money from foreign
14 countries.

15 Q. Did the incident that the PVA journalist
16 recorded that day at the Hillary Clinton campaign
17 event result in any complaints before the FEC?

18 A. I believe so, yes.

19 Q. I'm sorry, when I say "FEC," we mean
20 Federal Election Commission?

21 A. Yes.

22 Q. Who made that complaint?

23 A. Benjamin Barr.

24 Q. Who's Benjamin Barr?

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1 Q. Not while the question is pending,
2 Mr. O'Keefe.

3 A. Okay.

4 Q. How do you know that woman?

5 A. Well, I have a policy at Project Veritas
6 not to identify the current names of our undercover
7 journalists since it would violate my code of
8 conduct internally to release the names of current
9 Project Veritas undercover journalists.

10 Q. You're aware, aren't you --

11 MR. KLEIN: Can we go off the
12 record.

13 MR. HASKELL: Yes.

14 (Discussion held off the record)

15 BY MR. HASKELL:

16 Q. So, how do you know the woman who goes
17 by the name is Marissa Jorge?

18 A. She works with me at Project Veritas.

19 Q. Does she also do work for PVA?

20 A. Yes, she does, yes.

21 Q. Is Marissa Jorge the only name you know
22 her by? You can answer yes or no.

23 A. No, since she uses undercover aliases.

24 Q. Is Marissa Jorge her true name?

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1 A. Yes.

2 Q. Was Ms. Jorge involved in an
3 investigation into the AFT Michigan?

4 A. Yes.

5 Q. What did Ms. Jorge do as part of that
6 investigation?

7 A. That investigation is not released yet.
8 So, I have an obligation to talk about my notebooks
9 that haven't been released yet apparently. Is
10 that -- I guess I have to answer his question. He
11 wants me to answer a question that --

12 MR. KLEIN: Can we go off the
13 record?

14 A. -- concerns materials I haven't
15 released.

16 MR. HASKELL: Question is pending,
17 Steve.

18 MR. KLEIN: I understand that.

19 A. As a journalist I can't in good
20 conscience answer a question about what's in my
21 unedited reporter notebooks since The New York Times
22 and CBS in good conscience wouldn't answer that
23 question either.

24 MR. HASKELL: Do you want to take

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1 a moment, or should we continue?

2 MR. KLEIN: Yes, let's go.

3 (Counsel conferred with witness)

4 BY MR. HASKELL:

5 Q. So, I think we left off talking about
6 the AFT Michigan investigation. My question,
7 Mr. O'Keefe, is how did Ms. Jorge obtain access to
8 AFT Michigan?

9 A. Ms. Jorge obtained access by
10 volunteering with the office.

11 Q. Did she approach the office without
12 prior introduction? Was it a cold call?

13 A. I'm trying to remember exactly the
14 approach itself. I believe it was an e-mail.

15 Q. That she e-mailed somebody at the AFT
16 Michigan?

17 A. Correct.

18 Q. In that e-mail did she describe her
19 background or why working at AFT Michigan might be a
20 good fit for her or for them?

21 A. I believe she did, yes.

22 Q. Do you know what she said?

23 A. I don't have it in front of me, but I
24 could find out.

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1 Q. In general, did she represent herself as
2 a student?

3 A. It was either a student or a recent
4 graduate.

5 Q. And was she at that time a student?

6 A. No.

7 Q. Was she a recent graduate?

8 A. No.

9 Q. Did she submit a resume to AFT Michigan
10 in order to obtain this opportunity?

11 A. I don't recall.

12 Q. Did she submit any other credentials?

13 A. I don't recall.

14 Q. Did she give AFT Michigan a name?

15 A. Yes.

16 Q. And it wasn't her actual name?

17 A. Correct.

18 Q. Okay. Can we pull Exhibit 5 out of the
19 big stack, please. I think that's it right there.

20 A. Okay.

21 Q. Exhibit 5 is a document titled
22 Plaintiff's Responses to Defendant's First Set of
23 Interrogatories. Have you ever seen that document
24 before?

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1 A. I see so many documents. I may have
2 glanced at it in an e-mail once.

3 Q. Okay. If we go to page seven of
4 Exhibit 5, I'd ask you to follow with me as I read
5 interrogatory 11 which asks PVA to please identify
6 each step you have taken in furtherance of making
7 any future recording in Massachusetts.

8 PVA's response is that it has been aware
9 of the unequivocal ban in General Laws Chapter 272,
10 Section 99, since 2015. Because of this unequivocal
11 ban, its steps have been limited to monitoring
12 instances in Massachusetts, largely reports from
13 other news outlets, that it would investigate with
14 secret recording but for the ban. Since March 2016
15 Plaintiff has engaged in an Constitutional challenge
16 in an effort to overturn the unequivocal ban on
17 secret recording.

18 Have I read interrogatory number 11 and
19 response accurately?

20 A. Yes.

21 Q. Follow with me as I read interrogatory
22 number 12 which asks PVA to please identify each
23 person with knowledge of any steps identified in
24 response to the preceding interrogatory. PVA's

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1 response identifies Russell Verney, Robert
2 Halderman, and yourself. Have I read that
3 correctly?

4 A. Yes.

5 Q. And so looking at the list of steps PVA
6 has taken in furtherance of making future recordings
7 in Massachusetts that PVA laid out in response to
8 interrogatory 11, is that response a complete
9 statement of the steps you're aware of that PVA has
10 taken in furtherance of making future recordings in
11 Massachusetts?

12 A. That seems to be a complete and accurate
13 statement, yes.

14 Q. Thank you. Still working with
15 Exhibit 5, if you flip one page back to page six,
16 and I'd ask you to please read to yourself
17 interrogatory number nine and PVA's response as well
18 as interrogatory number ten and PVA's response.

19 A. (Deponent viewing exhibit).

20 Okay, I've read it.

21 Q. To your knowledge is the listing of
22 occurrences in which PVA desired to secretly record
23 a person in Massachusetts but refrained from doing
24 so; that is, the list provided in the response to

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1 interrogatory number nine, is that list in response
2 to interrogatory nine complete?

3 A. Since this document was drafted in
4 January, the only other issue I suppose I would add
5 is education. Otherwise, yes, it's complete.

6 Q. Can I ask you -- we'll be speaking more
7 about this in a moment. From the stack of exhibits
8 to pull out Exhibit 26.

9 A. Sure. Twenty-six, okay.

10 Q. Take a moment to read Exhibit 26,
11 please.

12 A. (Deponent viewing exhibit).

13 Okay.

14 Q. When you say education, does Exhibit 26
15 describe the education related investigation that
16 you had in mind?

17 A. No.

18 Q. Okay. Let's talk about that now then.
19 So, when you say an education related opportunity
20 that's cropped up in the past, what, three months,
21 what is that opportunity?

22 A. Education, state education officials
23 covering up sexual abuse, a la what the Boston Globe
24 reported on with the Catholic Church that won the

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1 Pulitzer Prize.

2 Q. What is the nature of -- well, these
3 education officials you're describing, who are they?

4 A. A lot of them work with education
5 associations or federations of teachers. Their
6 charter describes that they want to protect
7 children. Oftentimes they do the exact opposite of
8 that.

9 Q. Does PVA have information about specific
10 individuals in Massachusetts engaging in that kind
11 of conduct?

12 A. I have access to information like that,
13 yes.

14 Q. When you say "information like that,"
15 what information do you have access to?

16 A. Sources, tipsters, locations, addresses,
17 suspicions based upon things that sources tell me.

18 Q. Have your sources and tipsters,
19 et cetera, identified specific people in
20 Massachusetts who PVA would be interested to record
21 as part of such investigation?

22 A. Not a specific individual, no.

23 Q. And have they identified specific places
24 where PVA would be interested to make such

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1 recordings?

2 A. Yes.

3 Q. What places are those?

4 A. I don't have them in front of me, but
5 addresses of locations where these events might
6 occur.

7 Q. What events are you referring to?

8 A. Activities of those sorts of cover-ups
9 that are taking place.

10 Q. Where in Massachusetts do you have
11 information that such coverup activities may be
12 occurring?

13 A. Well, Boston is one place.

14 Q. Where in Boston?

15 A. I don't have the address in front of me.
16 I could check.

17 Q. What is the organization or person who
18 PVA would seek to secretly record in connection with
19 that allegation?

20 A. I would have to check. I would have to
21 check and get back with you. I don't have that in
22 front of me.

23 Q. Do you remember?

24 A. I don't recall.

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1 Q. So, if -- but you said there's no
2 specific person associated with that allegation of
3 coverup; right?

4 A. That's correct.

5 Q. Is there a specific organization or
6 company or association or chapter or group
7 associated with that allegation?

8 A. One of them is the education
9 association.

10 Q. I'm sorry, which education association
11 is that?

12 A. Massachusetts Education Association.

13 Q. What is the Mass. Education Association?

14 A. It's a union that represents teachers in
15 the state.

16 Q. And you have information that that
17 organization is engaged in covering up some sort of
18 misdeeds against children?

19 A. Yes.

20 Q. What information do you have as to that
21 allegation?

22 A. Sources that I speak with.

23 Q. What have they told you?

24 A. They've talked to me about the behavior

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1 of the officials in these organizations.

2 Q. What have they said?

3 A. How they behave and what they do. I
4 have reason to believe that these organizations are
5 engaged in wrongdoing that needs to be exposed.

6 Q. And so what did your sources tell you
7 specifically that leads you to believe that this
8 organization, the Mass. Education Association, is
9 engaged in wrongdoing?

10 A. The manner in which they conduct
11 themselves inside of the offices.

12 Q. What about it?

13 A. That it needs to be exposed; that it
14 needs to be filmed; that it needs to be uncovered
15 and distributed to the masses, to the audience I
16 mean.

17 Q. What is it that happens at the office of
18 the Mass. Education Association that you want to
19 record?

20 A. I'd have to speculate about exactly what
21 they would say. Do you want me to do that?

22 Q. Speculate about what who would say?

23 A. The officials inside of the office.

24 Q. Well, let me try asking it a different

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1 way. Why would PVA seek to record people at the
2 office of the Mass. Education Association?

3 A. If they were doing something that was
4 hurting the interests of children and violating
5 their mission statement, if they are an organization
6 that receives directly or indirectly public monies,
7 they should be exposed and the people of
8 Massachusetts should be educated about it in
9 furtherance of the mission statement of our
10 organization to expose and educate people what
11 happens.

12 Q. You're aware that there is some such
13 wrongdoing at the Mass. Education Association?

14 A. I have reason to believe, yes.

15 Q. What is that reason?

16 A. The sources that I speak with, the
17 investigative work that I have done in other states
18 at similar organizations, the information I have
19 available to me through sources and tipsters.

20 Q. I feel like we're going around in
21 circles here, but let me ask it this way. Are you
22 aware of any present opportunity that PVA has to
23 record a particular person in a particular place
24 relative to this potential investigation into

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1 education related issues?

2 A. Yes, I am aware -- I don't have a
3 particular name of a person, but I have particular
4 locations.

5 Q. Tell me those locations, please.

6 A. I don't have them memorized.

7 Q. What do you remember?

8 A. The locations of the offices in the
9 state of Massachusetts where this behavior might
10 occur.

11 Q. So you said one was the Mass. Education
12 Association.

13 A. Correct.

14 Q. Are you aware of any others?

15 A. I would have to look at my notes. I
16 don't recall off the top of my head the others.

17 Q. Do you remember whether there were
18 others?

19 A. I believe there are others, yes.

20 Q. Do you have a memory that there were
21 other locations besides the Mass. Education
22 Association?

23 A. I do.

24 Q. Do you remember what those are?

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1 A. I don't.

2 Q. The Mass. Education Association, where
3 is its office?

4 A. I don't know off the top of my head.

5 Q. Has PVA developed an operational plan to
6 pursue this education related investigation that
7 you're describing?

8 A. Not in Massachusetts.

9 Q. And you said this opportunity just came
10 up within the past several months?

11 A. Yes, we have -- we get sent thousands of
12 tips and sources and people that come to us that
13 offer ideas, tips, about what to investigate.

14 Q. Who provided this tip to PVA?

15 A. It's more than one person. It could be
16 a tip that comes through our tip line. It could be
17 a person that speaks to me who is an expert on the
18 subject matter. In this case it was a little bit of
19 both.

20 Q. So, is it your testimony that PVA has
21 received tips from its tip line about this education
22 related investigation in Massachusetts?

23 A. I'd have to check to see if it came
24 through the PVA tip line, but I get tipped off

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1 through Facebook. I get tipped off in my
2 conversations at conferences with people, I give
3 speeches at. I get tipped off by sources who work
4 in the education reform movement. I get sent
5 information a lot of different ways. So, I don't
6 know if it was specifically through the PVA tip
7 line.

8 Q. Well, you testified a moment ago that
9 your source of information about this education
10 related potential investigation, I think you said it
11 came from a little bit of both relating to tipsters
12 and subject matter experts.

13 A. Yes.

14 Q. How did the tipster information get to
15 PVA?

16 A. I don't recall exactly. It could have
17 been in conference, for example, where I gave a
18 speech and I spoke to someone after the speech. We
19 also have a source that we're working with in New
20 Jersey that we speak with. I would rather not give
21 his name. We have a lot of informants around the
22 United States.

23 Q. Did that person in New Jersey provide
24 information about an opportunity to secretly record

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1 a specific person in a specific place in
2 Massachusetts?

3 A. Not a specific person, no, but we have
4 discussed recording in various states.

5 Q. You also mentioned the part of PVA's
6 information on this came from a subject matter
7 expert. What do you mean when you testify subject
8 matter expert?

9 A. Someone who knows about education reform
10 and the issues inherent in that topic, areas to look
11 for, what we might expose.

12 Q. And has PVA received information from a
13 subject matter expert about an opportunity to record
14 a particular person in a particular place in
15 Massachusetts?

16 A. Not a particular person, no.

17 Q. And so is it your testimony that while
18 PVA has identified the Mass. Education Association
19 as an organization that it would be interested to
20 record, it hasn't identified any particular
21 individuals it would like to record, it hasn't
22 identified a particular place it would like to
23 recording short of MEA's offices?

24 A. That's correct.

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1 A. No.

2 Q. No, you're not aware or, no, it did not
3 result in such a plan?

4 A. It did not result in any plan.

5 Q. Have you ever visited the office of the
6 Mass. Education Association?

7 A. No.

8 Q. Do you know what controls, if any, are
9 in place at that office to obtain access to it?

10 A. I'd have to check. I don't know off the
11 top of my head.

12 Q. Do you know whether somebody entering
13 that office needs to swipe a card?

14 A. I don't, no.

15 Q. Do you know whether somebody entering
16 that office has to go through a locked door?

17 A. I don't.

18 Q. Do you know whether somebody entering
19 that office has to pass by a reception desk?

20 A. I don't.

21 Q. Do you know whether some or all of that
22 office is open to the public?

23 A. I don't off the top of my head, no.

24 Q. Of all these potential investigations

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1 we've just discussed as to interrogatory number
2 nine -- by the way, as to all of these potential
3 investigations we've just discussed on Exhibit 9,
4 when we were talking about opportunities to conduct
5 recording in Massachusetts, those were all secret
6 recording opportunities; right?

7 A. Yes.

8 Q. And as to all these investigations,
9 would you characterize any of them as election
10 related?

11 A. That depends.

12 Q. What does it depend on?

13 A. If the Antifa people are coordinating
14 with and working with people running for office.

15 Q. Do you have any present reason to
16 believe that they are so coordinating?

17 A. I have a tough time defining reason to
18 believe, but I suspect in some cases they might be,
19 yes.

20 Q. Does that suspicion relate specifically
21 to the Antifa activities and events occurring in
22 Massachusetts?

23 A. No, because I'm not working in
24 Massachusetts.

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1 Q. So, you don't have any present reason to
2 believe that the Antifa organizations in
3 Massachusetts are coordinating with any election
4 campaign?

5 A. No.

6 Q. Can I ask you to take Exhibit 28 out of
7 the stack we previously marked. Exhibit 28 is the
8 document titled Plaintiff's Supplemental Responses
9 to Defendant's First Set of Requests for Admission.
10 Have you seen that document before?

11 A. I may have.

12 Q. Let me turn your attention to page three
13 and ask you to please read to yourself request for
14 admission number 13 and PVA's response.

15 A. (Deponent viewing exhibit).

16 Okay.

17 Q. Are you the James O'Keefe who on or
18 about May 26, 2010, pled guilty to and was convicted
19 of entry by false appearances on real property of
20 the United States in violation of the United States
21 Code in the case of United States versus O'Keefe,
22 Criminal Action No. 10CR-81SRDDEK in the U.S.
23 District Court for the Eastern District of
24 Louisiana?

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1 A. Yes.

2 (Marked Exhibit 75, Complaint)

3 A. I'm ready.

4 Q. Do you recognize Exhibit 75?

5 A. Yes.

6 Q. And in particular, if you look at the
7 final page of Exhibit 75, there are a series of
8 signatures.

9 A. Yep, yes.

10 Q. Do you recognize your signature on that
11 page?

12 A. Yep, I wrote a whole book about it.

13 Q. Of those signatures, yours is the one
14 that appears just above the typed "James O'Keefe,
15 Defendant"?

16 A. Yes.

17 Q. And you signed Exhibit 75 on March 24,
18 2010?

19 A. Yes.

20 Q. In your own words, what do you
21 understand it to mean when you signed Exhibit 75?

22 A. Pleading guilty to a misdemeanor crime.

23 Q. And looking at the final page of
24 Exhibit 75, above the signatures there's a paragraph

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1 that states, Both the government and the Defendants
2 Joseph Basil, Stan Dye, Robert Flanagan, and James
3 O'Keefe do hereby stipulate and agree that the above
4 facts are true and that they set forth a sufficient
5 factual basis for the crime to which the Defendants
6 are pleading guilty. Do you see that?

7 A. Yes.

8 Q. Was it your understanding in signing
9 this document that you were stipulating and agreeing
10 that the above facts are true and that they set
11 forth a sufficient basis for your guilty plea?

12 A. Yes.

13 (Marked Exhibit 76, Excerpts from
14 "American Pravda")

15 BY MR. HASKELL:

16 Q. Did you have a chance to look at
17 Exhibit 76?

18 A. Yes.

19 Q. Do you recognize it?

20 A. Yes.

21 Q. What is it?

22 A. It's a various excerpts of my second
23 book, American Pravda.

24 Q. And specifically is it fair to say that